

# The Ethics of Bribery and Corruption: Why We Should Care

Professor N. Craig Smith

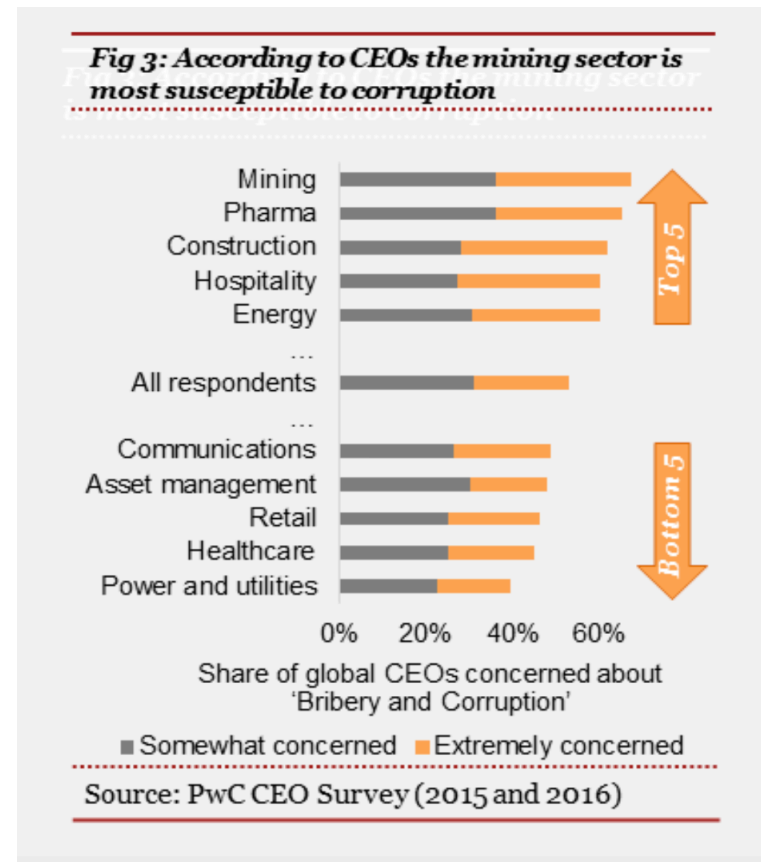
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Congress, Athens, April 2019

# Why Ethics Attention to Bribery?

- Generally illegal and unethical—condemned by all major religious and moral codes
- Commercial bribery is often “most difficult ethical issue faced” in business
- Highly prevalent in some contexts, especially in many emerging economies—with major adverse economic effects
- Long-standing practice—evident since 3,000 B.C.
  - Bribery and corruption are found in Cicero’s *Pro Cluentio*, the *Holy Bible*, Chaucer’s *Canterbury Tales*, Shakespeare’s *Measure for Measure*...
- Increasing reputational and legal risks for individuals and companies

# Pharma CEO Concern about Bribery



PwC Global  
CEO Survey  
(N = 1400)

# Bribery Etiquette

- By any other name...
  - “Chai” (Kenya), a “good coffee” (Iraq), a “refresco” (Mexico)
  - “Baksheesh” (Middle East)
  - “Un petit cadeau” (North Africa), “a little something for the weekend” (Nigeria)
  - “Speed money” (India)
  - “Envelopes”



Source: *Economist*, December 19<sup>th</sup> 2006

# Gifts, Tips & Bribes (Noonan, *Bribes*)

- Gifts
  - Express affection, convey personal feeling
  - Not meant to obligate recipient—uncoercive & uncoerced
- Tips
  - Reward past acts and influence future ones
  - No conflict of interest between employee's loyalty to employer and employee's response to payment
- Bribes
  - Reflect/create an overriding obligation
  - Create a conflict of duties
  - Necessarily secret

# What is Bribery?

- Reciprocity... a gift that perverts judgment
- “The offering, giving, receiving, or soliciting of any item of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.”

*Black's Law Dictionary*

- Also, bribery between private parties
- “Inducing or colluding in a breach of trust”

Paine & Bruner 2005

# GSK in China

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<https://www.youtube.com/watch?v=9PW6isRzmYY>

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# What is Bribery?

- Potential for ambiguity in practice?
  - When is business entertaining and gift-giving potentially bribe-like/bribery? Monetary value? Timing?
  - When is assistance to a hospital (e.g., to the operating theatre by a devices company) or HCP bribery/bribe-like?
- Key test = *Intent to pervert the judgement of the recipient*



# Consequentialist vs Non-Consequentialist Theories

- Consequentialist: Moral rightness of an action is determined solely by its results—the weighting of good to bad that an action is likely to produce
  - Dominant theory is utilitarianism: “greatest good to the greatest number of people” (Bentham)
- Non-Consequentialist: Consequences may be morally significant, but what matters is the nature of the act in question, not just its results
  - Duty-based theories: Kant’s Categorical Imperative; Ross’ “prima facie duties”; Social contract theories
  - Virtue ethics: Aristotle, Confucius

# Duty-Based Analysis: Bribery

- Bribery is wrong when it involves intentional violation of binding moral duty—for briber & bribee
- Bribee's moral duty stems from special obligation that comes with position held (their job/role)
  - Conflict of binding obligation to principal
    - “alienation of agency”
  - Thus violation of contract or breach of promise
- In public-sector bribery (bribee is a public official), there may be a broader obligation to the public (violation of public trust)

# Consequentialist Analysis: Bribery

- Bribery is wrong when it produces overall bad consequences
- Direct/microenvironmental effects
  - Enhancing shareholder wealth
  - Save jobs, ability to pay creditors
- Macroenvironmental effects
  - Keeps economy moving
- However, there are many serious potential bad consequences...

# Consequentialist Analysis: Bribery

- Microenvironmental (bad) effects
  - E.g., retail buyer bribed by supplier makes suboptimal purchase decision
    - Harm to retailer and supplier's competitors
- Macroenvironmental (bad) effects
  - Economic inefficiencies
    - Inefficient resource allocations (rent-seeking)
    - Price information less meaningful (secrecy)
  - Public-sector spending determined by graft opportunities for corrupt officials
  - Diminished trust in the economic system

# Societal Consequences of Bribery & Corruption

- “One notch increase in perceived corruption levels [CPI] is associated with a \$380 decrease in GDP per capita and so lower standards of living... reducing corruption should also boost economic prosperity” (PWC 2017 analysis).
- Illicit financial flows deprive developing countries of around US\$1.26 trillion per year (UN: SDG 16)
- 1 in 4 people around the world paid a bribe for public services in last 12 months (TI “Citizen’s Voices” 2017)
  - 50-75% in some countries (e.g., India, Mexico, Vietnam)
- Significant negative effect on employee morale—even if firm ‘gets away with it’ (Healy & Serafeim 2013)

# Bridge Collapse

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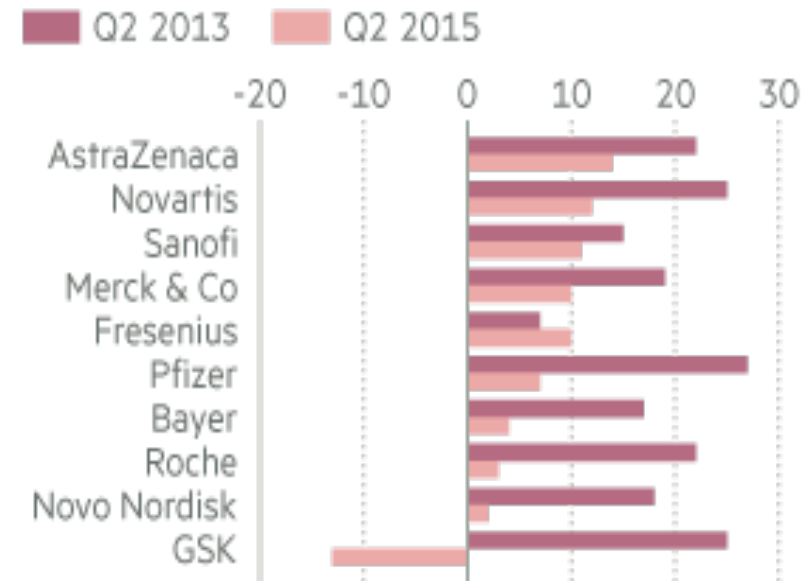
Yangmingtang Bridge in the city of Harbin, China (Source: *The New York Times* 2012)

# GSK in China

- June 2013: GSK China raid
- September 2014: found guilty of paying \$450m. in bribes; fined £300m; suspended prison sentence for Mark Reilly & 4 execs
- Sales reps no longer on commission in China and GSK no longer uses Chinese travel agents
- Sept 2016 GSK settles with SEC for \$20m.

## Top multinational drug companies in China

Annual change in sales (%)



Source: GSK

FT





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